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PATENT
Attorney Docket No.: 019959-001510US
Client Reference No.: FDRY-0065-US

TOWNSEND and TOWNSEND and CREW LLP

By: Gina Yekelchik
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Philip Kwan

Application No.: 10/631,366

Filed: July 31, 2003

For: SYSTEM AND METHOD FOR
SOURCE IP ANTI-SPOOFING
SECURITY

Customer No.: 20350

Confirmation No.: 2149

Examiner: Piotr Poltorak

Art Unit: 2134

REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT
DETERMINATION

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.705(b), Applicants respectfully request reconsideration of the patent term adjustment determination. This request is accompanied by the fee set forth in § 1.18(e) and a statement of facts as required under 37 C.F.R. § 1.705(b)(2).

Statement of Facts

Correct Patent Term Adjustment and Bases Under §§ 1.702, 1.703, and 1.704 for the Adjustment

The correct patent term adjustment is 1103 days, not 672 days as stated on the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) mailed on January 13, 2009.

The period of adjustment under 37 C.F.R. § 1.702(a) is 855 days ("A delay").

The period of adjustment under 37 C.F.R. § 1.702(b) is to be determined when the instant application issues. The effective period of adjustment as of the mailing date of the Notice of Allowance under 37 C.F.R. § 1.702(b) is 617 days (“B delay”).

The period of overlapping days over the period of adjustments under 37 C.F.R. §§ 1.703(a)-(e) is 186 days.

The period adjustment under 37 C.F.R. § 1.704(a) is 183 days (“applicant delay”).

The relevant dates as specified in 37 C.F.R. §§ 1.703(a)-(e) &
the adjustment specified in 37 C.F.R. § 1.703(f)

1. § 1.703(a)

Applicants are in agreement with the USPTO determination of a period of adjustment of 855 days under 37 C.F.R. § 1.703(a). (*See* Exhibit A, attached hereto).

Applicants respectfully request an additional period of adjustment equal to the number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid, February 25, 2009, and all outstanding requirements were satisfied and ending on the date the patent was issued. *See* 37 C.F.R. § 1.703(a)(6).

2. § 1.703(b)

The period of adjustment under 37 C.F.R. § 1.702(b) begins on the day after the date that is three years from the filing date of the instant application, July 31, 2006, and ends on the day the patent is issued.

The period of adjustment does not include the period beginning on the date on which an RCE was filed, April 8, 2008. *See* 37 C.F.R. § 1.703(b)(1).

Thus, the effective period of adjustment under 37 C.F.R. § 1.702(b) is 617 days, *i.e.*, from July 31, 2006 to April 8, 2008.

3. § 1.703(c)-(e)

There are no relevant dates as specified under §§ 1.703(c)-(e).

4. Calculation of Overlapping Days under § 1.703(f)

There are 186 days in the overlapping periods under §§ 1.703(a)-(c). The overlapping period is from July 31, 2006 to February 2, 2002.

Applicants request that overlapping periods be determined in accordance with *Wyeth v. Dudas* (Case No. 07-1492, D.D.C. 2008). The periods of delay under 35 U.S.C. §154(b)(1)(A) and 35 U.S.C. §154(b)(1)(B) overlap only if they occur on the same calendar day or days.

As discussed above, Applicants respectfully request an additional period of adjustment equal to the number of days, if any, under 37 C.F.R. § 1.703(a)(6). Any such period of adjustment under 37 C.F.R. § 1.703(a)(6) begins on February 25, 2009 will not overlap with a period of adjustment under 37 C.F.R. § 1.702(b) which does not include the period beginning on April 8, 2008 .

Reduction of period of adjustment of patent term under 37 C.F.R. §1.704

Application are in agreement with the U.S. Patent and Trademark Office determination of an adjustment of 183 days under 37 C.F.R. § 1.704(a).

Patent Term Adjustment Determination

Applicants are entitled to 1103 days of patent term adjustment, *i.e.*,
[(A delay (855 days) + B delay (617 days) – overlap (186 days)) - [183 days (applicant delay)]
under 37 C.F.R. § 1.703(f). Applicants are also entitled to any period of adjustment under 37 C.F.R. § 1.703(a)(6).

Terminal disclaimer

No terminal disclaimer has been filed.

Please charge the fee set forth in 37 C.F.R. §1.18(e) (\$200.00) to Deposit Order Account No. 20-1430. Please charge any necessary additional fees or credit any overpayments to our Deposit Order Account No. 20-1430.

Based on the foregoing, Applicants respectfully request reconsideration of the patent term adjustment determination.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

/Andrew J. Lee/

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Attachment: Exhibit A (2 pages)

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